The PRESIDING OFFICER. The Senator does not have time reserved but there will be 12 minutes remaining.

Mr. MURKOWSKI. I ask to be recognized after Senator SPECTER. I ask unanimous consent for the remaining time. I do not intend to take all the 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

THE PIECES TO THE PUZZLE

Mr. SPECTER. Mr. President, I thank the Chair for that clarification. I have sought recognition this morning to express my concern that the legislation submitted by the President for homeland security submitted two days ago to the Congress does not meet the critical need for collection and analysis of intelligence information in one place.

Each day there are new disclosures of key information, information which was known prior to September 11, 2001. If it had been activated and put together with other information, this might well have prevented the September 11 attack.

This morning's Washington Post has as its major story, in the upper right-hand corner, ''NSA Intercepts On Eve of 9/11 Sent a Warning.'' The first sentence reads:

> The National Security Agency intercepted two messages on the eve of the September 11 attacks on the World Trade Center and the Pentagon warning that something was going to happen the next day.

If that information had been put together with other information which was in the files of Federal intelligence agencies but not focused on, there would have been, I think, an emerging picture providing a warning, not just connecting dots, but a picture which was pretty obvious when all of the pieces were put together.

The FBI had the now-famous Phoenix report, which had been submitted in July 2001 by the Phoenix office, telling about aeronautical training to people with backgrounds which indicated potential terrorist leanings, aeronautical students with a large picture of Osama bin Laden in their room and a background which would have supported the inference that those students in training might well have been put up to something. If that had been put together with the confession that was obtained by a Pakistani terrorist known as Abdul Hakim Murad in 1996, who had connections with al-Qaida, when he told of plans to attack the CIA headquarters in Washington by plane and to fly into the White House, there might have been a pretty sharp focus, especially if linked to the information which had been developed by the FBI field office in Minneapolis, that there was a man named Zacarias Moussaoui, who had terrorist connections to al-Qaida, and that plans were being developed and that he was actually to be the twentieth hijacker.

That information never came to full fruition because of a failure of the Federal Bureau of Investigation to move the matter forward for a warrant under the Foreign Intelligence Surveillance Act.

The Judiciary Committee heard testimony from special agent Coleen Rowley about the difficulties of dealing with the FBI, which requires a standard not in accordance with the law, 51 percent, more probable than not where the standard of a warrant does not require that. Had Moussaoui's computer been examined, it would have provided a virtual blueprint for what was about to happen.

These are very glaring and fundamental defects in our intelligence system. They have existed for a very long time. We have had a situation where the Director of Central Intelligence, who is supposed to be in charge of all intelligence, does not have key components of the intelligence apparatus under his wing. For example, he does not have access to the National Reconnaissance Office. He does not have unfettered access to the National Security Agency, the National Imagery and Mapping Agency, and certain special Navy units. This is a deficiency which has gone on for a long time.

When I chaired the Senate Intelligence Committee during the 104th Congress, I introduced Senate bill 1718. That bill was designed to correct the deficiency that the Director of the Central Intelligence Agency, who nominally and in the public view had access to all of the intelligence information, but, in fact, did not have it. My bill, S. 1718, is only one of many efforts which are currently underway, efforts which are currently under consideration by the White House. However, there is strong opposition by the Department of Defense and opposition by others. I am not characterizing it necessarily as a turf battle. It is a battle which has its origin in the concerns of some in the Department of Defense that the Department of Defense has the responsibility to fight a war and needs access to all of these intelligence matters; that is unique control.

The reality is that a structure can be worked out so the Department of Defense is not deprived of access to any of this information in time of war or at any time. However, the Director of Central Intelligence ought to have it in one coordinated place.

Now, when you create a Department of Homeland Security, it is obviously very difficult to touch upon matters on the broader picture. That is something that must be done and which must be addressed. When this matter was considered, I raised some of these issues in a meeting which Senators had with the White House Chief of Staff Andrew Card and Homeland Security Advisor, Governor Ridge. Recently, there have been additional meetings at the staff level, working together with the White House staff extensively, one of which was last Friday afternoon. During that meeting, my staff made a specific proposal that on the Department of Homeland Security, there should be a repository in one place to gather all of this information. The suggestion which we submitted was that there should be a national terrorism assessment center, a concept developed by someone who is very experienced in intelligence affairs, Charles Battaglia, who spent years in the CIA, as well as the Navy, and who served as majority staff director for the Intelligence Committee during my tenure as chairman during the 104th Congress.

The Battaglia proposal to establish a national terrorism assessment center, in my opinion, goes right to the mark. It would be staffed by analysts who would come from the FBI, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and a listing of other Federal agencies, including the State Department's Bureau of Intelligence and Research, which would have access to all of this information.

The bill, which was submitted by the President two days ago to establish the Department of Homeland Security, I say respectfully, does not meet this core critical ingredient. For example, referring to intelligence staff, the President's proposal provides at section 201: The Secretary may obtain such material by request.

Mr. President, that is hardly the authority that the Secretary of Homeland Defense needs to do his job. If he has to ask somebody in Washington, DC, for something, it is an enormous uncertainty as to whether he will get it. In fact, it is more probable than not that he will not get it. There is a long trail around here to get information from anyone. I have seen that in detail in my time trying to conduct oversight on the FBI or in conducting oversight when I chaired the Intelligence Committee. That information just is not forthcoming.

The President's bill further provides that the Secretary may enter into ''cooperative arrangements with other executive agencies to share such material.'' Whether or not there will be such arrangements entered into, and whether the other executive agencies will be agreeable to that, is highly uncertain.

The time has long since passed to leave it to the discretion of a large variety of the Federal bureaucrats as to what they will do on intelligence. The time has come for the Congress of the United States in legislation signed by the President to establish central authority in one place, under one roof, to collect all the information which is available. To do any less is dereliction of our duty. That has not been done. The intelligence community has been stumbling along. America stumbled into September 11 because this Congress had not undertaken the approach with the strength to resolve all of these jurisdictional disputes and see to

it that this information was under one roof.

The Congress of the United States has a fundamental responsibility to provide for the security of the United States. When the Judiciary Committee conducts hearings and finds out that the FBI does not have the procedures in place to know what is in the Phoenix report on a potential terrorist with Osama bin Laden's picture on his wall, when the Judiciary Committee commits oversight and finds out that the FBI Minneapolis office cannot get headquarters to request a warrant under the Foreign Intelligence Surveillance Act because they are applying the wrong standard, when the Intelligence Committee conducts oversight on the Director of Central Intelligence and finds his authority lacking because he does not know what many other intelligence agencies are collecting, and when the National Security Agency has on the eve of September 11 specific warnings and these pieces are not put together, the time has come to act.

On this legislation, we ought to move ahead with a national terrorism assessment center. This information, as I noted earlier, was communicated by my staff to the White House staff. We did not have it prepared in time, but we had it this week in draft form. However, the matter is now before the Congress.

For the information of my colleagues, I ask unanimous consent that this draft proposal be printed in the CONGRESSIONAL RECORD. It is by no means a finished product, however it might be of some help as we move ahead with hearings on this very important subject in the Congress.

There being no objection, the material was ordered to be printed in the Record, as follows:

AMENDMENT NO.—

(Purpose: To provide the Secretary of the Department of Homeland Security with timely and objective intelligence assessments on terrorism and actionable intelligence essential to carry out the Secretary's duties as assigned, and to refocus the efforts of Federal law enforcement (including the FBI) on the collection, analysis, and dissemination of intelligence related to terrorism)

At the appropriate place, insert the following:

SEC. ___. NATIONAL TERRORISM ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established the National Terrorism Assessment Center (in this section referred to as the ''NTAC''), to provide—

(1) the Department of Homeland Security with the authority to direct the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and other officers of Federal agencies to provide the NTAC with all intelligence and information relating to threats of terrorism; and

(2) the means for intelligence from all sources to be analyzed, synthesized, and disseminated to Federal, State, and local agencies as considered appropriate by the Secretary.

(b) DUTIES OF THE NTAC.—The NTAC shall—

(1) direct the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and other officers of Federal agencies to provide the NTAC with all intelligence and information relating to threats of terrorism;

(2) synthesize and analyze information and intelligence from Federal, State, and local agencies and sources;

(3) disseminate intelligence to Federal, State, and local agencies to assist in the deterrence, prevention, preemption, and response to terrorism;

(4) refer, through the Secretary of Homeland Security, to the appropriate law enforcement or intelligence agency, intelligence and analysis requiring further investigation or action; and

(5) perform other related and appropriate duties, as assigned by the Secretary.

(c) MANAGEMENT OF THE NTAC.—

(1) IN GENERAL.—The NTAC shall be under the operational control of the Secretary of the Department of Homeland Security, who shall evaluate the performance of personnel assigned to the NTAC.

(2) DIRECTOR.—

(A) APPOINTMENT.—The NTAC Director shall be a senior officer of the Federal Bureau of Investigation and appointed by the Secretary of the Department of Homeland Security from candidates recommended by the Director of the Federal Bureau of Investigation.

(B) DUTIES.—The Director of the NTAC shall—

(i) ensure that the law enforcement, immigration, and intelligence databases information systems containing information relevant to homeland security are compatible; and

(ii) with respect to the functions under this subparagraph, ensure compliance with Federal laws relating to privacy and intelligence information.

(3) DEPUTY DIRECTOR.—The NTAC Deputy Director shall be a senior officer of the Central Intelligence Agency and appointed by the Secretary of the Department of Homeland Security from candidates recommended by the Director of Central Intelligence.

(d) STAFFING OF THE NTAC.—

(1) IN GENERAL.—The NTAC shall be staffed by analysts assigned by—

(A) the Federal Bureau of Investigation;

(B) the Central Intelligence Agency;

(C) the National Security Agency;

(D) the Defense Intelligence Agency;

(E) the National Imagery and Mapping Agency;

(F) the National Reconnaisance Office;

(G) the Department of Energy;

(H) the Department of Homeland Security;

(I) the Department of the Treasury;

(J) the Department of Justice;

(K) the Department of State; and

(L) any other Federal agency, as determined by the Secretary in consultation with the President or the President's designee.

(2) ADDITIONAL STAFFING.—The Secretary may also require the Immigration and Naturalization Service, Customs Service, Coast Guard, Secret Service, Border Patrol, and other subordinate agencies to assign additional employees to the NTAC.

(3) ADMINISTRATIVE SUPPORT.—Administrative support to employees assigned to the NTAC from other agencies shall be provided by such agencies.

(e) AUTHORITY TO EMPLOY PERSONNEL AND CONSULTANTS.—

(1) IN GENERAL.—The Secretary of Homeland Security may, without regard to the civil service laws, employ and fix the compensation of such personnel and consultants, including representatives from academia, as the Secretary considers appropriate in order to permit the Secretary to discharge the responsibilities of the Department of Homeland Security.

(2) PERSONNEL SECURITY STANDARDS.—The employment of personnel and consultants under paragraph (1) shall be in accordance with such personnel security standards for access to classified information and intelligence as the Director of Central Intelligence shall establish for purposes of this subsection.

(f) TOUR OF DUTY REQUIREMENT.—

(1) SENIOR INTELLIGENCE SERVICE.—Title III of the National Security Act of 1947 (50 U.S.C. 409a) is amended by inserting after section 303 the following:

''PROMOTION TO SENIOR INTELLIGENCE SERVICE

''SEC. 304. An employee of an element of the intelligence community may not be promoted to a position in the Senior Intelligence Service until the employee has served 1 or more tours of duty, aggregating not less than 24 months, in a nonacademic position in 1 or more other elements of the intelligence community.''.

(2) SENIOR EXECUTIVE SERVICE FOR EMPLOYEES OF FBI.—Chapter 33 of title 28, United States Code, is amended by inserting after section 536 the following:

''§ 536A. Promotion to Senior Executive Service

''(a) An employee of the Federal Bureau of Investigation may not be promoted to a position in the Senior Executive Service until the employee has served 1 or more tours of duty, aggregating not less than 24 months, in a non-academic position in 1 or more other elements of the intelligence community.

''(b) In this section, the term 'element of the intelligence community' means an element of the intelligence community specified by or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) SENIOR INTELLIGENCE SERVICE.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 303 the following:

''304. Promotion to Senior Intelligence Service.''.

(B) SENIOR EXECUTIVE SERVICE FOR EMPLOYEES OF FBI.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 536 the following:

''536A. Promotion to Senior Executive Service.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act, and shall apply with respect to promotions that occur on or after that date.

(g) ACCESS OF DIRECTOR OF CENTRAL INTELLIGENCE TO INTELLIGENCE COLLECTED BY INTELLIGENCE COMMUNITY.—Section 104 of the National Security Act of 1947 (50 U.S.C. 403–4) is amended by adding at the end the following:

''(h) ACCESS TO INTELLIGENCE.—(1) The Director shall have full and complete access to any intelligence collected by an element of the intelligence community that the Director requires in order to discharge the responsibilities of the Director under section 103.

''(2) The head of each element of the intelligence community shall take appropriate actions to ensure that such element complies fully with the requirement in paragraph (1).''.

(h) ELECTRONIC NETWORKING OF INTELLIGENCE DATA.—As soon as practicable after the date of enactment of this Act, the Director of Central Intelligence shall implement a program to provide for the full interconnection by electronic means of the intelligence databases of the intelligence community in

order to ensure the ready accessibility by all elements of the intelligence community of intelligence and other information stored in such databases.

Mr. SPECTER. I yield the floor.

YUCCA MOUNTAIN

Mr. MURKOWSKI. Mr. President, I stand to try to enlighten Members about the Yucca Mountain resolution which is going to be before this body. Yesterday, I took to the floor to speak on the current status of the Yucca Mountain debate in the Senate. I bring it to my colleagues' attention this measure has been reported by the Energy and Natural Resources Committee and is now ready for consideration by the full Senate.

There is a process here. I think it is somewhat confusing to Members, and hopefully we will get a better understanding when I share my analysis.

I want to make sure everyone understands that I certainly support the majority leader's ability to control the floor of the Senate and hence the schedule. I hope the majority leader will bring this issue to the floor shortly. I and others are looking forward to working with him, Senator LOTT and others, to try to come to an agreement to move the Yucca Mountain issue. However, should the majority leader choose not to bring this up and asks the Republicans to do it, we are prepared to oblige.

The process laid out is unique in the Nuclear Waste Policy Act. It was intended to eliminate any opportunity to delay, impede, frustrate, or obstruct the Senate and House votes on this siting resolution. That is the reason this expedited procedure was put into the act.

As Senator CRAIG pointed out last week, this was very specific language. It provides that any Senator on either side may move to proceed to consideration of the resolution.

There is a historical association with these procedures. Back when the Nuclear Waste Policy Act was debated in 1982, a central question was how to treat an obligation by the State selected for the repository if, in fact, the State objected—hence the situation with regard to Nevada. Nevada was selected. Nevada has rejected the site.

Back then there was a Congressman by the name of Moakley, the chairman of the House Rules Committee. He was concerned over what he perceived as a constitutional issue—single House action—and sought an approach that would allow a State to raise an objection but also guarantee that a decision would be made without raising constitutional questions. The solution he proposed, and which is included in the legislation, was passage of a joint resolution coupled with expedited procedures that would eliminate any opportunity for obstruction or delay. In other words, trying to make it fair to the State that was affected.

Moakley's State veto provision was added to the House-Senate compromise bill after Senator Proxmire threatened to filibuster the bill unless it was included. Senator Proxmire described the provisions as making it ''in order for any Member of the Senate to move to proceed to consideration of the resolution'' to override the State's veto.

That is where we are today on this matter.

Further, as a little history, Senator George Mitchell, who was the majority leader at that time, insisted that the language ''should not burden the process with dilatory or obstructionist provisions'' and was only accepted in the Senate because we were all assured that there were no procedural or other avenues that would prevent the Senate from working its will within the statutory framework.

Again, I want to quote Congressman Moakley on that provision when the House approved the final measure:

> The Rules Committee compromise resolved the issue in a fair manner. We proposed a two-House veto of a State objection but required that both the House and Senate must vote within a short timeframe. So long as the vote is guaranteed, the procedures are identical as a political and parliamentary matter.

The process, which includes the right of any Senator to make the motion to proceed, is that guarantee.

All of this brings me to the point of the majority leader's ability to control the flow of legislation in this body. The majority leader has been very forthcoming in his position on the resolution, and I understand and appreciate that. While I disagree with his position, I do not question his honesty or his integrity. Nor do I wish to hinder his ability to control the floor in normal circumstances.

This situation, however, is not one in which we often find ourselves. In this rather extraordinary case, we find ourselves governed not by the usual rules and traditions of the Senate but, rather, by a very specific and limited expedited procedure—a procedure set out in law, a law that was passed by this body.

Senator DASCHLE chooses to call this fast-track procedure—he mentioned ''a violation of the Senate rules.'' I choose to call it an ''exception.'' But whatever it is, whatever you want to call it, it is the same thing. It is a statutory fast track to consider a type of measure that is not ordinarily before the Senate, nor ordinarily treated in this manner. Extraordinary circumstances often call for an extraordinary procedure, and I think that is what we have before us.

Despite what Senator DASCHLE has indicated in a press conference earlier this week:

> This whole procedure, as you know—we locked in a procedure many, many years ago—I believe it was in 1982—

And he continued later in the statement:

> But this is what we are faced with. And so given the fact that we're faced with a very un-Senate-like procedure, I have no objection to that concept. (Here he is referring to a Republican making the motion to proceed) in terms of who would raise the issue on the floor.

Certainly I appreciate the leader's recognition that this measure must come up, and should the majority leader not make the motion, obviously some other Member will. If that is what will happen, it does not in any manner undercut the authority of our majority leader. No Senator, however, has come running to interrupt the present schedule of proceedings by bringing up this resolution.

We have, in fact, had discussions between the majority and minority leaders. We would like to enter into a unanimous consent agreement to minimize any potential disruption to the Senate, but that may not be possible, given the objection of the Senators from Nevada.

I quote from an article that appeared in one of the publications that I was given, in the ''Hill Briefs,'' a reference by Emily Pierce, Congressional Quarterly staff writer, on 6–19 of this year, third paragraph:

> And Senator ENSIGN and Senator REID said they aimed to persuade enough Members of both parties to reject the procedural motion, contending it would set a bad precedent. They contend the majority leader should control the agenda rather than leave that task to another Senator.

That is really incidental, but I think it points out that we have two Senators from Nevada who rightly are going to object to moving this matter before the Senate.

Barring what would be any further delays, we can find an appropriate time that is convenient to the schedule of our two leaders to resolve this matter. As to who makes the motion to proceed, I do not know that it really matters very much.

When I was chairman of the Energy Committee, I occasionally came to the floor to move to proceed to some measure reported from the committee. I certainly think it would be equally appropriate for our present chairman to make the motion to proceed to the consideration of this resolution. However, he may not want to do so.

I commend Senator BINGAMAN for an excellent committee report and the deliberate approach that he took to the consideration of the resolution. I commend him. But the bottom line is that, if the majority leader does not want to make the motion, for substantive or whatever reason, the statute explicitly deals with the situation to ensure that the Senate can take action.

As I have said before, the State veto and the congressional joint resolution are extraordinary provisions. A vote on the resolution is essential to the compromise in the agreement of 1982 to go to a two-House resolution.

It offers no precedent for any other situation and by its terms is limited to this specific situation. There are enough substantive issues that we can discuss. We do not need to suggest that somehow an explicit provision in a